



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

Matter of: St. Charles Travel  
File: B-226567  
Date: June 5, 1987

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### **DIGEST**

1. Protest alleging that solicitation contained several deficiencies and that amended closing date allowed offerors insufficient time to revise and submit proposals is untimely when filed after date set for submission of initial proposals.
2. Contracting agency properly rejected late proposal where offeror was the paramount cause of late delivery, even though security guard at Air Force base may have contributed to late delivery by giving unclear or incorrect directions to base procurement building.

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### **DECISION**

St. Charles Travel protests award of a contract to any offeror pursuant to request for proposals (RFP) No. F11623-87-R0015, which was issued by the Department of the Air Force for travel agency and related services at Scott Air Force Base, Illinois. St. Charles protests that the RFP was deficient in several respects, that the time period allowed for preparing proposals was not adequate, and that the Air Force improperly rejected St. Charles' proposal because it was submitted after the closing time set for receipt of initial proposals.

We dismiss the protest in part and deny it in part.

The solicitation was issued on December 31, 1986. The record shows that the protester and at least one other potential offeror wrote to the contracting activity requesting clarification of the RFP in a number of areas. As a result, several amendments were issued and a preproposal conference was held on February 17, 1987, in order to provide clarification of the RFP to interested firms. Following the preproposal conference, the Air Force issued yet another amendment (No. 0005) which provided answers to questions raised by

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potential offerors at that meeting and which extended the closing date from March 2 to March 13. Early on March 12, in response to this amendment, the protester delivered an undated letter to the contracting officer concerning an RFP provision dealing with revenue sharing. Specifically, St. Charles asked the contracting officer to define the term "net revenue" as used in that RFP provision and stated it had to have this information prior to the next day's closing time in order to complete its proposal; otherwise, the protester asked that the closing date be postponed until the clarification could be provided. According to St. Charles, the contracting officer gave St. Charles the requested clarification of the revenue sharing clause by telephone on that same morning.

St. Charles prepared a proposal and attempted to deliver it to the designated location on Scott Air Force Base by the 4 p.m. closing time on March 13. However, the proposal was not delivered until after 4 p.m., and it therefore was rejected as late. St. Charles filed this protest with our Office on March 20.

St. Charles protests that amendment No. 0005 and the attached answers to preproposal conference questions did not adequately clarify a number of deficiencies in the original RFP and, in fact, created yet another ambiguity with regard to revenue sharing. St. Charles also protests that, since it received amendment No. 0005 on March 9 and the amendment only extended the closing date to March 13, the RFP allowed an inadequate time period to revise and prepare proposals. We find these protest issues to be untimely.

Under our Bid Protest Regulations, protests that are based on alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed before that date in order to be considered on their merits; protests that are based on alleged improprieties incorporated into the solicitation by amendment must be filed before the next closing date for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1986). Any deficiencies in the original RFP or incorporated therein by amendment No. 0005, including the revenue sharing provision and the short period between issuance of the amendment and the closing date, should have been apparent to St. Charles at the latest by March 9 when it received amendment No. 0005. Accordingly, under our Bid Protest Regulations, a protest of these apparent improprieties had to be filed by the March 13

closing date in order to be considered timely. See J.E. Steigerwald Co., Inc., B-218536, Apr. 19, 1985, 85-1 C.P.D. ¶ 453. Since St. Charles waited until March 20 to file its protest, these issues will not be considered on their merits.

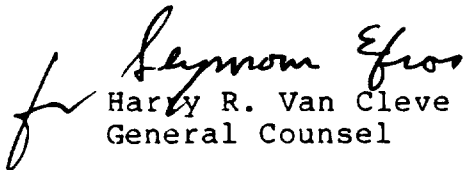
Concerning the Air Force's rejection of St. Charles' proposal as late, the following facts are presented by St. Charles. The RFP stated that proposals were to be submitted to building 861, room 254, at Scott Air Force Base, by 4 p.m. on March 13. The president of St. Charles hand-carried the proposal and arrived at Scott Air Force Base at approximately 3:25 p.m. After parking her car, she asked the security guard at the gate for directions to the base procurement division. She followed the directions and tried to locate the base procurement division for about 15 minutes without success. Next, she asked a passerby where building 861 was but did not get an adequate answer. She returned to the security gate at 3:53 p.m. and called someone at the base procurement division for directions. After checking his map, the security guard gave her a new set of directions to building 861. The president left the gate at 3:56 p.m. and arrived at building 861 at 4:02 p.m. Personnel in the base procurement office refused at first to accept the proposal, but it was finally logged in at 4:16 p.m.

As a general rule, an offeror has the responsibility of assuring the timely arrival of its proposal at the place designated in the solicitation. However, a hand-carried offer that is received late may be accepted where improper government action was the paramount cause for late delivery and the integrity of the procurement process would not be compromised by acceptance of the offer. Improper government action may be misdirection caused by a government employee; therefore, a misdirected late proposal may be considered so long as the offeror did not significantly contribute to the lateness. See Geiger Co., B-216502, Feb. 7, 1985, 85-1 C.P.D. ¶ 155.

We cannot conclude that improper government action was the paramount cause of the late delivery here. It appears that the security guard at the Scott Air Force Base gate was neither aware of the present procurement nor was he in any capacity directly connected to the base procurement division. While the directions the security guard initially gave to the president of St. Charles did not result in her finding the correct building, we cannot tell if the guard gave incorrect directions or whether the St. Charles officer misinterpreted or improperly followed correct directions. Furthermore, in view of the little time left before closing, the president of St. Charles spent an inordinate amount of

time (from 3:25 p.m. to 3:53 p.m.) looking unsuccessfully for the base procurement division before returning to the security gate and calling the procurement division for directions. In these circumstances, we conclude that St. Charles, which had the primary responsibility for delivering the proposal in time, significantly contributed to the late delivery. Compare Baeten Construction Co., B-210681, Aug. 12, 1983, 83-2 C.P.D. ¶ 203, wherein we held that a contracting agency properly considered a late bid because the misdirection of the bidder by the contracting officer's representative was the paramount cause of the bid being submitted late and, but for the misdirection, the bid would have been submitted on time.

The protest is dismissed in part and denied in part.

  
Harry R. Van Cleve  
General Counsel